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8 Axiom Foods, Inc. and Growing Naturals, LLC

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11

12 AXIOM FOODS, INC., a California
13 corporation,; GROWING
14 NATURALS, LLC, an Arizona limited
15 liability company,

16 Plaintiffs,

17 vs.

18 ACERCHEM INTERNATIONAL,
19 INC., an entity of unknown origin; and
20 ACERCHEM UK LIMITED, a United
Kingdom limited company,

21 Defendants.
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CASE NO.:

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR TRIAL BY JURY

SUMMARY OF ACTION

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2 1. Plaintiff Axiom Foods, Inc. ("Axiom") is a leading supplier of
3 organic and chemical-free products made from whole grain brown rice, peas, and
4 other superfoods. Axiom supplies protein concentrates and isolates, sugars, sugar
5 solids, honey, milks, flours, starches, and other products to the food, beverage,
6 nutraceutical, and specialty foods industries.

7 2. Plaintiff Growing Naturals, LLC ("GN") develops and sells to the
8 public natural products, including food products such as plant proteins and rice
9 milk powders. GN works closely with Axiom, and develops and sells products
10 based on and containing Axiom's products.

11 3. Defendants Acerchem International, Inc. and Acerchem UK Limited
12 (collectively, "Defendants") purport to be manufacturers of rice protein products.
13 Defendants have stolen and sought to wrongfully profit off of the brand identity
14 that Plaintiffs created over many years and are marketing rice protein products
15 using Axiom's and GN's copyrighted sales materials. Axiom and GN bring this
16 action to end Defendants' violations of their intellectual property rights and to
17 seek recovery of their damages.

18
19 **THE PARTIES**

20 4. Axiom is a California corporation doing business in this judicial
21 district. GN is an Arizona limited liability company doing business in this
22 judicial district. (Axiom and GN shall be collectively referred to herein as
23 "Plaintiffs").

24 5. Defendant Acerchem International, Inc. ("Acerchem International")
25 is an entity of unknown origin. At all times relevant to this action, Acerchem
26 International has had continuous and systematic contacts with the state of
27 California and this judicial district and has purposefully availed itself of the
28

1 privilege of doing business here, including in connection with the infringing sales
2 materials.

3 6. Defendant Acerchem UK Limited ("Acerchem UK") is a United
4 Kingdom limited company. At all times relevant to this action, Acerchem UK has
5 had continuous and systematic contacts with the state of California and this
6 judicial district and has purposefully availed itself of the privilege of doing
7 business here, including in connection with the infringing sales materials.

8 9 **JURISDICTION AND VENUE**

10 7. This action arises under the Copyright Act, 17 U.S.C. § 101 et seq.
11 Accordingly, this Court has original jurisdiction over the Copyright Act claims in
12 this action pursuant to 28 U.S.C. §§ 1121, 1331, and 1338.

13 8. A substantial part of the events and/or omissions giving rise to the
14 claims against Defendants occurred in this judicial district. Therefore, venue is
15 proper and assignment of this case to the Central District of California is
16 appropriate pursuant to 28 U.S.C. § 1391(b) and (c).

17 18 **GENERAL ALLEGATIONS**

19 9. Plaintiffs own certain copyright registrations for their advertising and
20 promotional materials and they use these copyrighted materials to promote their
21 goods and services. True and correct copies of these registrations are attached as
22 Exhibits A, B, C and D.

23 10. The copyrighted materials include, among other things, the logo "As
24 Good As Whey" and accompanying text, an example of which is shown on
25 Exhibit E, and the logo "Non-GMO," an example of which is shown on Exhibit F.

26 11. Defendants seek to compete with Plaintiffs with respect to certain of
27 Plaintiffs' goods and services.
28

12. Defendants, in a shameless and blatant attempt to steal Plaintiffs' valuable brand identities, have published and distributed a newsletter (the "Infringing Newsletter") to potential customers in California and elsewhere, promoting Defendants' rice protein products. Defendants' newsletter copies Plaintiffs' copyrighted materials, including but not limited to the "As Good As Whey" logo and the "Non-GMO" logo, without license or authorization from Plaintiffs.

13. A true and correct copy of the Infringing Newsletter is attached as Exhibit G.

FIRST CAUSE OF ACTION

COPYRIGHT INFRINGEMENT – 17 U.S.C. § 501

(By Axiom Against All Defendants)

14. Plaintiffs incorporate by reference paragraphs 1 through 13 of this Complaint.

15. Axiom is the owner of valid copyrights for the works titled "Non-GMO Allergen Friendly Vegan Indicias" and "Growing Naturals Sales Sheets." These works have been widely disseminated, are well-known in the rice protein industry, and Defendants have had access to them.

16. The Infringing Newsletter copies protected original elements of Axiom's copyrights and is substantially similar to those works.

17. Defendants' actions violate Axiom's exclusive rights under 17 U.S.C. § 106, including but not limited to Axiom's rights to reproduce, distribute, or sell the copyrighted works and the right to prepare derivative works, and therefore constitute copyright infringement pursuant to 17 U.S.C. § 501.

18. Each Defendant is also liable for contributory copyright infringement, in that, with knowledge of its co-defendant's infringing conduct, it induced, caused, and/or materially contributed to the infringing conduct.

19. Defendants' actions constitute willful infringement.

20. As a direct and proximate result of Defendants' infringement of Axiom's copyrights, Axiom has suffered, and continues to suffer, damages to its profits, sales, and business. Axiom has sustained, and will continue to sustain, great and irreparable injury in that it will lose customers and good will. Axiom has no adequate remedy at law for these injuries. Unless Defendants are restrained from making such false representations in the future, Axiom will be compelled to bring a multiplicity of suits to protect its interests.

SECOND CAUSE OF ACTION

COPYRIGHT INFRINGEMENT – 17 U.S.C. § 501

(By GN Against All Defendants)

21. Plaintiffs incorporate by reference paragraphs 1 through 13 of this Complaint.

22. GN is the owner of valid copyrights for the works titled "Growing Naturals Website" and "Growing Naturals Website (updated as of 2013)." These works have been widely disseminated, are well-known in the rice protein industry, and Defendants have had access to them.

23. The Infringing Newsletter copies protected original elements of GN's copyrights and is substantially similar to those works.

24. Defendants' actions violate GN's exclusive rights under 17 U.S.C. § 106, including but not limited to GN's rights to reproduce, distribute, or sell the copyrighted works and the right to prepare derivative works, and therefore constitute copyright infringement pursuant to 17 U.S.C. § 501.


25. Each Defendant is also liable for contributory copyright infringement, in that, with knowledge of its co-defendant's infringing conduct, it induced, caused, and/or materially contributed to the infringing conduct.

26. Defendants' actions constitute willful infringement.

1 principals, servants, officers, directors, partners, agents, representatives,
2 shareholders, employees, affiliates, successors, and assignees, and all others
3 acting in privity, concert, or participation with them, from (1) publishing or
4 distributing the Infringing Newsletter, (2) imitating, copying, duplicating, or
5 otherwise making use of any of GN's copyrighted works, or (3) assisting, aiding,
6 or abetting any person in engaging or performing any of the acts in (1) or (2); for
7 costs and attorneys' fees pursuant to 17 U.S.C. § 504; and for such other and
8 further legal and equitable relief as the Court deems just and proper.

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10 DATED: February 6, 2015

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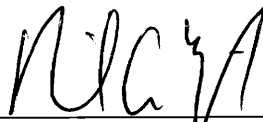
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13 _____
14 DANIEL C. LAPIDUS
15 Attorneys for Plaintiffs
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DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand a trial by jury of all issues which may be tried to a jury.

DATED: February 6, 2015

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DANIEL C. LAPIDUS
Attorneys for Plaintiffs
Axiom Foods, Inc. and Growing Naturals, LLC